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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/721,694	11/25/2003	William T. Ball	5564-138B	6303
22442	7590	03/27/2007		
SHERIDAN ROSS PC 1560 BROADWAY SUITE 1200 DENVER, CO 80202			EXAMINER FETSUGA, ROBERT M	
			ART UNIT	PAPER NUMBER
			3751	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		03/27/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/721,694	BALL, WILLIAM T.	
	Examiner	Art Unit	
	Robert M. Fetsuga	3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a): In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 5-21 is/are pending in the application.
- 4a) Of the above claim(s) 17-21 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 5, 7, 8 and 10-16 is/are rejected.
- 7) ☒ Claim(s) 6 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 14, 2007 has been entered.

2. Newly submitted claims 17-20 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: The product of claims 5-16 could be practiced by a method not requiring providing components (e.g. the components could pre-exist).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 17-20 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. The proposed drawing correction filed on February 14, 2007 is disapproved as being inconsistent with the drawings originally filed (Fig. 3), the corrections made June 27, 2005 (Fig. 3), and the corrections made November 03, 2005 (Figs. 2

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and 3). The response filed February 14, 2007 does not address the prior drawing corrections, nor the objection(s) applicant obviated in amending the drawings on the dates indicated.

4. The disclosure is objected to because of the following informalities: Reference characters "37A", "37B", "56", "61" and "68" lack a detailed description.

Appropriate correction is required.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Proper antecedent basis for the "interior threads" set forth in claim 5, subject matter set forth in claims 6, 9, 11 and 14, and "surface area" set forth in claim 10 could not be found in the specification. Applicant is reminded claim terminology in mechanical cases should appear in the descriptive portion of the specification by reference to the drawing(s).

6. Claim 10 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

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The claim recites a sealing element "selectively interconnected" to a body face. This subject matter is not found in the originally filed disclosure and is therefore considered to be new matter.

7. Claims 5, 7, 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 is unclear as to the relationship between the "threadingly engages" feature on line 9, and the "interconnected" feature on line 3 thereof. Claim 7 is similarly indefinite regarding the pipe "threads".

Claim 5 is unclear as to the relationship between the "flange" on line 5, and the "face" on line 4 thereof. Note line 7.

Claim 12 is unclear as to the relationship between the "threads" on line 1 thereof, and the "interconnection" on line 5 of claim 10.

Claim 13 is unclear as to the relationship between the "face" on line 2 thereof, and the "surface area" on line 3 of claim 10.

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8. The claim hierarchy does not appear to be in accordance with MPEP 608.01(m). Claims remaining at allowance may require renumbering.

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 10-12, 15 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Orberg et al.

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The Orberg reference discloses a closure comprising: a body 13 including a first end 32, a second end 30, an outer surface 28 and an inner surface 29; and a sealing element/membrane (Figs. 1 and 10), as claimed.

11. Claims 10, 11 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Ball.

The Ball reference discloses a closure comprising: a body 60 including a first end 62, a second end 54, an outer surface (Fig. 3) and an inner surface 54; a sealing element/membrane 64; a flange 56; and a second flange 58, as claimed.

12. Claims 5, 7, 8, 10-13, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Minnick and Ball.

The Minnick reference discloses an overflow system comprising: a pipe 3 including interior threads 4; a cap 5 including an outer face 9, interior threads (col. 3 lns. 20-22), and a flange 11; and a sealing element 16. Re claim 7, to associate threads on both the outside and inside of the pipe would have been obvious in order to enable a single pipe to be used with two different caps. Therefore, Minnick teaches all claimed elements except for the sealing element being a membrane.

Although the sealing element of the Minnick overflow system does not include a membrane, as claimed, attention is directed

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to the Ball reference which discloses an analogous overflow system which further includes a sealing element having a membrane 64. Therefore, in consideration of Ball, it would have been obvious to one of ordinary skill in the overflow system art to associate a membrane with the Minnick sealing element in order to enable opening by cutting.

13. Claims 6 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Applicant's arguments with respect to claim 5 at page 8 of the response have been considered but are moot in view of the new ground(s) of rejection.

15. Applicant is referred to MPEP 714.02 and 608.01(o) in responding to this Office action.

16. Any inquiry concerning this communication should be directed to Robert M. Fetsuga at telephone number 571/272-4886 who can be most easily reached Monday through Thursday. The Office central fax number is 571/273-8300.



Robert M. Fetsuga
Primary Examiner
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